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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-eighth session

SUMMARY RECORD OF THE 1st MEETING

Held at the Palais des Nations, Geneva,
on Monday, 5 August 1996, at 10.30 a.m.

Temporary Chairman: Mr. MAXIM

Chairman: Mr. EIDE

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The meeting was called to order at 11.20 a.m.

OPENING OF THE SESSION

1. The TEMPORARY CHAIRMAN declared open the forty-eighth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. He welcomed the newly elected members, Mr. Mehedi, Mr. Myung Chul Hahn and Mr. Weissbrodt, and congratulated all those members whose terms had been renewed.

2. Among the most important developments that had taken place since the end of the previous session of the Sub-Commission was the convening in Geneva, from 18 March to 26 April 1996, of the fifty-second session of the Commission on Human Rights, during which the Commission had adopted about 100 resolutions, decisions and statements which covered practically all the questions considered by the Sub-Commission. Among the new measures taken, of particular importance was the decision to establish for a two-year period an intergovernmental group of 10 experts with a mandate to elaborate a strategy for the implementation and promotion of the right to development. The Commission had asked another working group to prepare guidelines on structural adjustment programmes and economic, social and cultural rights, and had also recommended the holding of an expert seminar on the practice of forced evictions. It had authorized the Sub-Commission to appoint a special rapporteur to undertake an in-depth study of the situation of systematic rape, sexual slavery and slavery-like practices during periods of armed conflict. The Secretary-General had furthermore been asked to create an open-ended team to organize the next workshop and to facilitate the regional arrangements for the promotion and protection of human rights in the region of Asia and the Pacific and to establish within the Centre for Human Rights a focal point for the Third Decade to Combat Racism and Racial Discrimination.

3. In addition, the Commission had adopted resolutions on various questions with which the Sub-Commission was concerned, such as the rights of detainees, minorities, indigenous peoples, migrant workers, persons with AIDS, women and children. Except for two or three specific cases pertaining to some of the studies recommended, it had approved all the resolutions and decisions adopted by the Sub-Commission at its forty-seventh session.

4. One issue which had been debated at length by the Commission was the future of the Sub-Commission, with some members of the Commission taking the view that the Sub-Commission should consider cases of massive violations of human rights in greater depth and others that it should limit itself to carrying out studies. The Sub-Commission would therefore have to reflect on the manner in which it was carrying out its mandate and reconsider its methods of work.

5. In conclusion, he thanked the Centre for Human Rights for its assistance and cooperation throughout his chairmanship.

STATEMENT BY THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

6. Mr. AYALA LASSO (United Nations High Commissioner for Human Rights) said that since its establishment in 1946, the Sub-Commission, supported by the valuable contribution of the non-governmental organizations (NGOs) had played a key role within the United Nations in the promotion and protection of human rights. He counted a great deal on its cooperation in meeting the challenges ahead in the field of human rights, particularly in the implementation of the Vienna Declaration and Programme of Action.

7. In order to respond better to the forthcoming demands of the human rights programme, and within the framework of the reshaping of the United Nations system, a restructuring programme had been established for the Centre for Human Rights, which was described in a report by the Secretary-General to the Fifth Committee (A/C.5/50/71). The draft Medium-Term Plan for the period 1998-2001, which had been presented to the Committee on Planning and Coordination and which outlined the strategy of the human rights programme, was based on the principles of the Vienna Declaration and Programme of Action, including the principle that democracy, development and respect for human rights were interdependent and that all human rights were universal, indivisible and interrelated. The plan identified the following objectives: to emphasize the importance of human rights on the international and national agendas; to promote international cooperation for human rights; to stimulate and coordinate action across the whole United Nations system; to promote universal ratification and implementation of international standards and to assist in the development of new norms; to support human rights organs and treaty-monitoring bodies; to anticipate and prevent potential serious violations and react to violations when they occurred; to promote the establishment of national human rights infrastructures; to undertake human rights field activities and operations; and to provide education, information, advisory services and technical assistance in the field of human rights.

8. Despite its efforts to put an end to violations of human rights, the Sub-Commission continued to receive reports on violence resulting in the loss of the lives of thousands of individuals, displaced persons, refugees, racial discrimination, violence against women, sexual abuse of children, and extreme poverty. On the other hand, however, the Centre was receiving a growing number of requests for technical assistance and advice on how to bring domestic legislation into line with international standards, how to ensure that the rule of law became a firm component of the structure of the State and how to prevent human rights violations from occurring. It was the responsibility of the Sub-Commission to encourage the worldwide trend towards human rights, democracy and development and to make it irreversible. He was convinced that, given the expertise of its members, it could help make human rights a reality for people everywhere.

9. Turning to some of the items on the agenda, he stressed the need, reaffirmed at a round table on racism on the eve of the twenty-first century, held on 21 March 1996 in commemoration of the International Day for the Elimination of Racial Discrimination, to pursue efforts aimed at creating a world of peace, prosperity and tolerance for future generations through strict respect for human rights and fundamental freedoms. The understandable wish to preserve one's own identity must not degenerate into racism, ethnic disdain

and hatred. The phenomenon of racism, often emerging in new forms, continued to contradict basic human values. No effort should be spared to eradicate such unspeakable practices, particularly within the context of the Third Decade Against Racism and Racial Discrimination and the Decade for Human Rights Education, which he hoped would contribute to developing a culture of tolerance, respectful of cultural diversities and the rights of others. The activities of the Working Group on Indigenous Peoples and the Working Group on Minorities were very valuable initiatives in that regard.

10. The functions of the right to development, to which the World Conference on Human Rights had attached great importance, were becoming better identified and its impact on other rights more profoundly recognized. He welcomed the consensus achieved by the Commission when adopting its resolution on the right to development and its decision to establish an intergovernmental group of experts to elaborate a strategy for the implementation and promotion of that right. The right to development should not remain a subject of theoretical or political discussion, and the international community should look for concepts that would allow the advantages resulting from sustainable development to be granted directly to the members of their own societies. The right to development, a vehicle for the individual's identification with his community, should also be viewed against the background of the triad of principles proclaimed by the World Conference: democracy, development and respect for human rights. Responsibility for the implementation of the right to development rested primarily with the respective Governments, but international action could assist Governments in that task; the recommendations contained in the final report of the Special Rapporteur on extreme poverty and human rights would no doubt give the United Nations the opportunity to develop a firmer action plan to combat extreme poverty, the scourge of the modern world. In keeping with his mandate, he had endeavoured to encourage cooperation among United Nations bodies to promote the effective realization of the right to development. He also referred to a seminar on the right to development and ways of ensuring its effective realization, to be held in Tunis in November 1996 in cooperation with the Government of Tunisia.

11. He welcomed the initiative taken by the Sub-Commission in 1995 to consider the human rights of women and the girl child under every item of its agenda, as well as the request that all reports submitted to the Sub-Commission in 1996 should contain a gender perspective in their analyses and recommendations. As the Sub-Commission knew, he had made gender equality and women's rights priorities in his programme of work. The recommendations to be adopted by the Sub-Commission, including those adopted within the context of the final report of Mrs. Warzazi, Special Rapporteur on traditional practices affecting the health of women and children (E/CN.4/Sub.2/1996/6), would certainly provide significant new input to the United Nations programme for the protection of the status of women.

12. With regard to the protection of children, and especially the question of juvenile justice, he called attention to the report of the Secretary-General on advisory services and technical cooperation in the field of human rights (E/CN.4/1996/90), which contained a detailed presentation of relevant activities carried out in various countries. His Office was also cooperating on a practical level with the United Nations Crime Prevention and Criminal Justice Branch and the United Nations Children's Fund (UNICEF). In

November 1995, the Committee on the Rights of the Child had held a general debate on the question of the administration of justice for minors. Activities concerning human rights and the administration of justice, particularly the status of children in detention, should be further strengthened, especially through practical projects to be carried out at the country and regional levels.

13. He wished to draw the Commission's attention to other equally substantial issues, including the protection of disabled persons and migrant workers, contemporary forms of slavery, human rights and scientific and technological development, and impunity. Everyone knew that the work of the United Nations rested primarily on cooperation with States and societies. The notion of cooperation had contributed to a climate in which individuals who, for one reason or another, committed acts of genocide, rape or ethnic cleansing would increasingly be held responsible for their deeds. The observations by Mr. Joinet and Mr. El-Hadji Guissé in their respective studies on the complex problem of impunity would be of great assistance in that regard.

14. In 1998, the fiftieth anniversary of the Universal Declaration of Human Rights would be celebrated. The Commission had launched preparations for that event and had asked the High Commissioner to coordinate related activities system-wide. A programme would be developed in wide consultations with States and other interested parties. Also in 1998, the five-year stocktaking of the implementation of the recommendations of the World Conference on Human Rights would take place. It would therefore be a year with a paramount human rights agenda. The international community should take advantage of that opportunity and give a new impetus to the promotion and protection of human rights, keeping in particular view the need to assist potential victims of human rights violations by averting the threats they faced.

ELECTION OF OFFICERS (item 1 of the provisional agenda)

15. The TEMPORARY CHAIRMAN invited nominations for the office of Chairman.

16. Mrs. DAES proposed Mr. Eide.

17. Mr. KHALIFA and Mr. BOUTKEVITCH seconded the proposal.

18. Mr. Eide was elected Chairman by acclamation.

19. Mr. Eide took the Chair.

20. The CHAIRMAN thanked the members of the Sub-Commission for the confidence they had shown in him by electing him Chairman of the forty-eighth session. Unlike some people, he was personally convinced that the Sub-Commission remained an essential body which had some obvious comparative advantages over other human rights bodies: firstly, it was not a political but an expert body; secondly, unlike other expert bodies whose role was to monitor States parties' implementation of a particular treaty, its work, which was based first and foremost on the Universal Declaration of Human Rights, covered a vast field; thirdly, it enjoyed the active participation of a large number of NGOs. The Sub-Commission was nevertheless not immune to criticism. The unfocused approach to its tasks, for which it had been reproached, was

sometimes a fact, and there was much that could be done to make it focus its work better and improve its cooperation with the other human rights monitoring bodies, as well as with the High Commissioner for Human Rights.

21. Several items on the agenda particularly merited consideration. As to whether the violation of human rights should be considered under the open procedure under agenda item 6, or under the confidential procedure under agenda item 9, the Sub-Commission had decided at its last session to review its methods of work in order to take into account the reports of the thematic and country rapporteurs and working groups of the Commission. It would reserve at least one meeting for its own discussions on that subject, which would not exclude the presence of observers.

22. On racial discrimination, xenophobia, problems of minorities and migrant workers (agenda items 5, 17, 18 and 20), despite the major achievements that the Sub-Commission had to its credit in that area (mobilizing action against apartheid, protection of members of minorities, the human rights dimensions of population transfers), its work seemed somewhat out of focus. Now that apartheid was gone, new challenges were appearing which had to be properly addressed: new forms of racial discrimination, massive ethnic cleansing and massacres, huge flows of refugees and internally displaced persons, individual acts of violence and the institutional difficulties faced by migrant workers called into question the very foundations of human rights and the principles of equality and non-discrimination.

23. With regard to the promotion of the rights of indigenous peoples, the Working Group on that question had demonstrated that by bringing together representatives of groups facing discrimination and giving them a platform from which to attract the attention of the international community, substantial results could be obtained: since the creation of the Working Group, substantial legislative and practical improvements had been made in many countries. It was to be hoped that the dynamism of the Working Group would be sustained until other mechanisms were found which could even better safeguard the rights of indigenous peoples.

24. Realization of economic and social rights was an integral part of the Universal Declaration of Human Rights, and the Sub-Commission had made significant contributions in that field, for example through its studies on the right to food and the right to housing, which contained valuable recommendations. All of those issues had to be seen in the light of global economic processes: the "global village" which those processes tended to create was in fact a village of tremendous differences, with the influential and prosperous part of the population coexisting alongside more than 1 billion human beings who still lived in abject poverty. The Sub-Commission might examine some of those challenges under agenda item 7. Only more serious attention to economic and social rights, including extensive international cooperation, could prevent the economic dislocations caused by those processes leading to some of the violent internal conflicts observed today. The studies under way on human rights and extreme poverty and on the impact of income distribution on human rights would undoubtedly help the Sub-Commission better to focus its future work in that field.

25. The work of the Sub-Commission under agenda item 10 was in much better focus. The Sub-Commission had done impressive work by promoting sound principles in the administration of justice and the protection of detainees. The study on the prevention of impunity was at the moment the most important new development in the field.

26. In conclusion, he appealed for more constructive cooperation, particularly on the part of NGOs. While there could be no doubt of the need to react against violations of human rights, it was also important to find ways by which the causes of violations could be eliminated. To do so, it was essential that the progress made by a growing number of Governments in advancing pluralistic democracy and an effective rule of law based on human rights principles, despite frequently numerous obstacles, should be recognized. While the miraculously peaceful transformation of South Africa was one such example, there were many other cases of which little was heard because it was mainly the bad cases, not the good ones, that came to light. It should be noted that Governments were not always solely responsible for human rights violations; their efforts were sometimes seriously undermined by certain non-governmental entities.

27. The duties of every individual to the community under article 29 of the Universal Declaration of Human Rights tended to be overlooked exclusively in favour of the rights of the individual. Human rights could not be ensured if each person did not also contribute something to the common welfare of society as a whole. Recalling that everyone was entitled to a social and international order in which the rights and freedoms set forth in the Declaration could be truly realized (art. 28 of the Declaration), he said he hoped that vision would guide the work of the Sub-Commission at its forty-eighth session.

28. The CHAIRMAN invited nominations for the offices of Vice-Chairman.

29. Mr. HATANO proposed Mr. Ali Khan.

30. Mr. BOUTKEVITCH proposed Mr. Chernichenko.

31. The CHAIRMAN said that the Latin American Group would propose its candidate at the meeting on 6 August.

32. Mr. Ali Khan and Mr. Chernichenko were elected Vice-Chairmen by acclamation.

33. The CHAIRMAN invited nominations for the office of Rapporteur.

34. Mr. YIMER proposed Mrs. Gwanmesia.

35. Mrs. GWANMESIA was elected Rapporteur by acclamation.

MINUTE OF SILENCE IN HONOUR OF VICTIMS OF ALL FORMS OF VIOLATIONS OF HUMAN RIGHTS IN ALL REGIONS OF THE WORLD

36. The CHAIRMAN said that, by its decision 1994/103, the Sub-Commission had decided to observe at the commencement of each of its sessions a minute of silence in honour of victims of all forms of violations of human rights in all regions of the world.

37. Mrs. PALLEY proposed that the tribute should also include journalists and human rights defenders killed for exposing such violations. It was the assassination on 6 July 1996 of a courageous Turkish-Cypriot journalist, Mr. Kutlu Adali, for whose death she felt personally responsible, that had prompted her proposal. She did not believe that the timing of his assassination was a mere coincidence. For the past four years, she had been reading his articles and admiring his courage in describing the situation in his country. Before quoting extensively from that brave man, she had weighed the risks facing critics of Governments whose forces were involved in armed conflict. She knew that the Government and army he had criticized had not actively pursued the murderers of many other journalists. Despite that fact, she had decided to quote from his articles in confidential human rights proceedings, in which the documents had been available only to the two Governments party to the application, and she was certain that his writings had considerably influenced the outcome. It was also obvious that he would have been a potential witness in later phases of the case. He had been assassinated on 6 July 1996, six days after the European Commission on Human Rights had upheld an application against the Government he had for so long criticized. That distinguished Turkish-Cypriot journalist had proved Turkey's control over a part of Cyprus, had proved Turkey's massive colonization of the part of Cyprus it occupied and had proved Turkey's creation of conditions compelling Turkish Cypriots to emigrate. A terrorist organization with long associations with Turkish military men had claimed responsibility for the murder. That responsibility was also hers for using him to bear witness against Turkey. She saluted the memory of Kutlu Adali and that of all the other brave journalists and human rights defenders, as well as of all victims of human rights violations.

38. Mrs. DAES and Mr. GUISSÉ supported Mrs. Palley's proposal and asked that the tribute also be extended to members of humanitarian NGOs risking their lives in zones of armed conflict.

39. The CHAIRMAN said that the wishes of Mrs. Palley, Mrs. Daes and Mr. Guissé would be duly noted.

40. The members of the Sub-Commission observed a minute of silence in honour of victims of all forms of violations of human rights in all regions of the world.

ADOPTION OF THE AGENDA (item 2 of the provisional agenda) (E/CN.4/Sub.2/1996/1 and Add.1)

41. Mr. CHERNICHENKO proposed adding a subparagraph (c) to agenda item 18, which would be entitled, "the right to leave one's country and to return to it".

42. The CHAIRMAN said that if there were no objections, he would take it that the Sub-Commission accepted that proposal

43. It was so decided.

44. Mrs. WARZAZI said that the Sub-Commission should consider the question of the thirtieth anniversary of the adoption of the International Covenant on Economic, Social and Cultural Rights and of the International Covenant on Civil and Political Rights.

45. Mr. JOINET proposed that Mrs. Warzazi should draft a resolution on the subject. At its previous session, the Sub-Commission had decided to put off until its fortieth session consideration of draft resolution E/CN.4/Sub.2/1995/L.47, on the amnesty law in Peru. He wondered whether the question should not be placed on the agenda.

46. Mrs. DAES suggested that agenda item 6 should include the very important issue of the protection of journalists. She also supported Mrs. Warzazi's proposal.

47. The provisional agenda was adopted, as orally amended, subject to any amendments which might be made as a result of the follow-up to be given to the proposals of Mrs. Warzazi, Mr. Joinet and Mrs. Daes after consideration by the Bureau.

The meeting rose at 1.00 p.m.